



City of Tukwila

Washington

Ordinance No. 1998

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ESTABLISHING A UTILITY TAX TO PROVIDE REVENUE FOR CITY SERVICES AND CAPITAL REQUIREMENTS; ESTABLISHING A SPECIAL REFERENDUM PROCEDURE; SETTING PENALTIES FOR NON-COMPLIANCE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that the Financial Planning Model demonstrated that there will be a deficit balance in the General Government Funds by 2005; and

WHEREAS, the City has availed itself of all appropriate revenue sources currently authorized, and has reduced expenditures by 5% in the Financial Planning Model; and

WHEREAS, the basic City service levels would be greatly reduced without a new source of revenue; and

WHEREAS, the City Council has determined that the public interest is best served by the implementation of a utility tax; and

WHEREAS, the City Council will review the rate changes scheduled for 2005 and 2007 to determine if they are necessary before they are implemented;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Utility Tax. The tax provided for in this ordinance shall be known as the "utility tax," and is levied upon the privilege of conducting an electric energy, natural or manufactured gas, telephone, or cable television business within the City of Tukwila effective February 1, 2003.

Section 2. Use and Accountability of Tax Proceeds. All revenues collected pursuant to this ordinance shall be deposited into the General Fund, and shall be used for the funding of City services or capital requirements as the Council shall direct through its annual budget process.

Section 3. Definitions.

As used in this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

1. "Cable television services" means the transmission of video programming and associated non-video signals to subscribers together with subscriber interaction, if any, which is provided in connection with video programming.

2. "Cellular telephone service" means any two-way voice and data telephone or similar communications system based in whole or in substantial part on wireless radio communications, including cellular mobile service, and which is not subject to regulation by the Washington State Utilities and Transportation Commission. Cellular mobile service includes other wireless radio communications services including specialized mobile radio, personal communications services, and any other evolving

wireless radio communications technology that accomplishes a purpose substantially similar to cellular mobile service. Cellular telephone service is included within the definition of "telephone business" for the purposes of this ordinance.

3. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, directory advertising and lease of telephone street directories, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which may be provided by persons not subject to regulation as telephone companies under Title 80 RCW, and for which a separate charge is made. Transmission of communication through cellular telephones is classified as "telephone business" rather than "competitive telephone service."

4. "Finance Director" means the Finance Director of the City of Tukwila, Washington, or his or her designee.

5. "Gross income" means the value proceeding or accruing from the performance of the particular business involved, including gross proceeds of sales, compensation for the rendition of services, and receipts (including all sums earned or charged, whether received or not) by reason of investment in the business engaged in (excluding rentals, receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidences of indebtedness, or stocks and the like), all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, taxes, interest or discount paid, delivery costs or any expenses whatsoever, and without any deduction on account of losses.

6. "Pager service" means service provided by means of an electronic device which has the ability to send or receive voice or digital messages transmitted through the local telephone network, via satellite or any other form of voice or data transmission. "Pager service" is included within the definition of "telephone business" for the purposes of this ordinance.

7. "Person" means any person, firm, corporation, association, or entity of any type engaged in a business subject to taxation under this ordinance.

8. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data, pager or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating an exchange. "Telephone business" does not include the providing of competitive telephone service or cable television service, or other providing of broadcast services by radio or television stations.

Section 4. Occupations Subject to Tax - Amount. There is levied upon, and shall be collected from a person because of certain business activities engaged in or carried on in the City of Tukwila, taxes in the amount to be determined by the application of rates given against gross income as follows:

1. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting electric energy, a tax equal to 4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond, of the total gross income from such business in the City during the period for which the tax is due;

2. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting gas, whether natural or manufactured, a tax equal to 4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond, of the total gross income from such business in the City during the period for which the tax is due;

3. Upon a person engaged in or carrying on any telephone business a tax equal to 4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond, of the total gross income, including income from intrastate long distance toll service, from such business in the City during the period for which the tax is due;

4. Upon a person engaged in or carrying on the business of selling, furnishing or transmitting cable television service, a tax equal to 4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond, of the total gross income from such business in the City during the period for which the tax is due.

5. In addition to the automatic annual review of the Financial Planning Model, the City Council will review the need for scheduled rate changes for 2005 and again for 2007.

Section 5. Tax Year. The tax year for purposes of this utility tax shall commence February 1, 2003 and end December 31, 2003, and thereafter shall commence on January 1, and end on December 31st each year.

Section 6. Exceptions and Deductions. There is excepted and deducted from the total gross income upon which the tax is computed:

1. That part of the total gross income derived from business which the City is prohibited from taxing under the constitution or laws of the United States and the constitution or laws of the State of Washington.

2. Income derived from that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010 - for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services; or for access to, or charges for, interstate services; or charges for network telephone service that is purchased for the purpose of resale.

3. Adjustments made to a billing or customer account in order to reverse a billing or charge that was not properly a debt of the customer.

4. Cash discounts allowed and actually granted to customers of the taxpayer during the tax year.

5. Uncollectible debts written off the taxpayer's books during the tax year. If subsequently collected, the income shall be reported for the period in which collected.

Section 7. Monthly Installments. The tax imposed by Section 4 of this ordinance shall be due and payable in monthly installments, and remittance therefore shall be made on or before the last day of the month following the end of the monthly period in which the tax is accrued. Annual returns for smaller entities may be allowed upon written approval from the Finance Director. On or before said due date, the taxpayer shall file with the Finance Director a written return upon such form and setting forth such information as the Finance Director shall reasonably require relating to the accurate computation and collection of this tax, together with the payment of the amount.

Section 8. Taxpayer's Records. Each taxpayer shall keep records reflecting the amount of the taxpayer's gross income on sales and services within the City, and such records shall be open at all reasonable times for the inspection of the Finance Director or his designee to verify information provided on any utility tax return, or to determine whether such return is required to be filed.

Section 9. Failure to Make Returns or to Pay the Tax in Full. If a taxpayer fails, neglects, or refuses to make his return as and when required by this ordinance, the Finance Director is authorized to determine the amount of the tax payable under provisions of Section 4 of this ordinance, and to notify such taxpayer of the amount so determined. The

amount so fixed shall thereupon be the tax and be immediately due and payable, together with penalty and interest. Delinquent taxes, including any penalties, are subject to an interest charge of 12 percent per year on the unpaid balance from the date any such taxes became due as provided in Section 7 of this ordinance.

Section 10. Penalty for Delinquent Payment. If a person subject to this tax fails to pay any tax required by this ordinance within fifteen days after the due date thereof, there shall be added to such tax a penalty of ten percent of the amount of such tax. Any tax due under this ordinance that is unpaid and all penalties thereon shall constitute a debt to the City and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

Section 11. Overpayment of Tax. Money paid to the City through error, or otherwise not in payment of the tax imposed by this ordinance, or in excess of such tax, shall, upon discovery, be credited against any tax due or to become due from such taxpayer hereunder, provided however, that overpayments extending beyond one year prior to notification of the City shall not be refunded. If such taxpayer has ceased doing business in the City, any such overpayment shall be refunded to the taxpayer.

Section 12. Noncompliance - Penalty.

A. No person subject to this ordinance shall fail or refuse to file tax returns or to pay tax when due, nor shall any person make a false statement or representation in, or in connection with, any such tax return, or otherwise violate or refuse to comply with this ordinance or with any rule promulgated pursuant to Section 14 herein.

B. In addition to the interest and delinquent filing penalties set forth above, a willful violation of or failure to comply with this ordinance is a civil infraction, subject to a fine of up to \$250 for each day that a violation continues.

Section 13. Appeal. A taxpayer aggrieved by the amount of the tax, penalties, interest, or civil infraction fine determined to be due by the Finance Director or his designee, under the provisions of this ordinance, may appeal such determination to the City of Tukwila's City Administrator or his or her designee.

Section 14. Finance Director to Make Rules. The Finance Director shall have the power to adopt and enforce rules and regulations not inconsistent with this ordinance or with the law for the purposes of carrying out the provisions thereof.

Section 15. Tax relief. The Finance Director will develop and propose to the Council a utility tax relief program for the City's senior and disabled low-income residents.

Section 16. Referendum Procedure. The provisions of this ordinance are subject to the referendum procedure as follows:

1. A referendum petition seeking to repeal this ordinance shall be filed with the City Clerk, who shall be designated the person to receive petitions of all types, within seven days of the passage by the City Council of this ordinance or publication thereof, whichever is later.

2. Within ten days, the City Clerk shall confer with the petitioner concerning the form and style of the petition, issue an identification number for the petition, and cause to be written a ballot title for the measure.

3. The ballot title shall be posed as a question, so that an affirmative answer to the question and an affirmative vote on the measure results in the tax or tax rate increase being imposed, and a negative answer to the question and a negative vote on the measure results in the tax or tax rate increase not being imposed. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

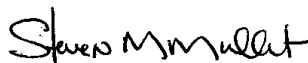
4. After notification of the identification number and ballot title, the petitioner shall have 30 days in which to secure on petition forms the signatures of not less than 15% of the registered voters of the City and to file the signed petitions with the City Clerk.

5. Each petition form shall contain the ballot title and the full text of the measure to be referred. The City Clerk shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the City Clerk shall cause the referendum measure to be submitted to the City voters at the next election within the city or at a special election as provided pursuant to RCW 35.17.260(2).

Section 17. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

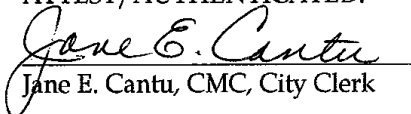
Section 18. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA,
WASHINGTON, at a Regular Meeting thereof this 18th day of
November, 2002.



Steven M. Mullet, Mayor

ATTEST/AUTHENTICATED:


Jane E. Cantu, CMC, City Clerk

APPROVED AS TO FORM BY:


Office of the City Attorney

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